August 27, 2019

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Republic Services, Inc.
ATTN: Managing Agent
5692 Eastgate Drive,
San Diego, CA 92121

Republic Services of San Diego Eastgate
ATTN: Managing Agent
5692 Eastgate Drive,
San Diego, CA 92121

Republic Services of San Diego Eastgate
ATTN: Managing Agent
18500 North Allied Way
Phoenix, AZ 85054

CT Corporation System
Registered agent for:
Republic Services, Inc.
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

SEP 04 2019

Republic Services, Inc.
ATTN: Managing Agent
18500 North Allied Way
Phoenix, AZ 85054

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To the Above-Listed Recipients:

Please accept this letter on behalf of San Diego Coastkeeper ("Coastkeeper") and Coastal Environmental Rights Foundation ("CERF") regarding violations of the Clean Water Act[1] and California's Storm Water Permit[2] occurring at the Republic Services of San Diego Eastgate Facility, located at 5692 Eastgate Drive, San Diego, California 92121 ("Eastgate Hauling Facility" or "Facility"). The purpose of this letter is to put Republic Services of San Diego Eastgate and/or Republic Services, Inc. ("Republic"), as the owner(s) and/or operator(s) of the Facility, on notice of the violations of the Storm Water Permit occurring at the Facility, including, but not limited to, discharges of polluted storm water from the Eastgate Hauling Facility into local surface waters. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, Republic is liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency

[1] Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*
[2] National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order No. 92-12-DWQ, Order No. 97-03-DWQ ("1997 Permit"), as amended by Order No. 2014-0057-DWQ ("2015 Permit).

("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1). This notice letter ("Notice Letter") is being sent to you as the responsible owner and/or operator of the Eastgate Hauling Facility, or as the registered agent for the owner and/or operator. This Notice Letter is issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act to inform Republic that Coastkeeper and CERF intend to file a federal enforcement action against Republic for violations of the Storm Water Permit and the Clean Water Act sixty (60) days from the date of this Notice Letter.

1. BACKGROUND

1.1. San Diego Coastkeeper and Coastal Environmental Rights Foundation.

San Diego Coastkeeper is a non-profit public benefit corporation organized under the laws of the State of California with its office at 2825 Dewey Road, Suite 207, San Diego, California 92106. Founded in 1995, San Diego Coastkeeper is dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of San Diego County watersheds. To further these goals, Coastkeeper actively seeks federal and state agency implementation of the Clean Water Act, and, where necessary, directly initiates enforcement actions on behalf of themselves and their members.

CERF is a non-profit public benefit corporation organized under the laws of the State of California with its main office in Encinitas, California. CERF is dedicated to the preservation, protection, and defense of the environment, the wildlife, and the natural resources of the California Coast. CERF's mailing address is 1140 S. Coast Highway 101, Encinitas, California 92024.

Members of Coastkeeper and CERF live in and around, recreate in and around, and enjoy the waters into which the Facility discharges, including Carroll Canyon, Soledad Canyon, Los Peñasquitos Lagoon, and the Pacific Ocean (collectively "Receiving Waters"). Members of Coastkeeper and CERF use the Receiving Waters to swim, boat, kayak, surf, bird watch, view wildlife, hike, bike, walk, run, and/or for general aesthetic enjoyment. Additionally, members of Coastkeeper and CERF use the Receiving Waters to engage in scientific study through pollution and habitat monitoring and restoration activities. The discharges of pollutants from the Facility impair each of these uses. Discharges of polluted storm water from the Facility are ongoing and continuous. Thus, the interests of Coastkeeper's and CERF's members have been, are being, and will continue to be adversely affected by the Eastgate Facility Owner and/or Operator's failure to comply with the Clean Water Act and the Storm Water Permit.

1.2. The Owner and/or Operator of the Facility.

Information available to Coastkeeper and CERF indicates that Republic Services, Inc. is the owner(s) and/or operator(s) of the Facility. *See* Facility Storm Water Pollution Prevention Plan dated November 2017 ("2017 SWPPP") ("The property is owned by Republic Services, Inc.

(Republic Services) and is being operated by Republic Services."). Republic Services, Inc. is herein referred to as "Republic" or "Facility Owner and/or Operator." Information available to Coastkeeper and CERF indicates that Republic Services, Inc. is an active Delaware corporation and its registered agent is CT Corporation System, 818 West Seventh Street, Suite 930, Los Angeles, California 90017.

The Eastgate Hauling Facility Owner and/or Operator has violated and continues to violate the procedural and substantive terms of the Storm Water Permit including, but not limited to, the illegal discharge of pollutants from the Facility into local surface waters. As explained herein, the Facility Owner and/or Operator is liable for violations of the Storm Water Permit and the Clean Water Act.

1.3. <u>The Facility's Storm Water Permit Coverage</u>.

Certain classified facilities that discharge storm water associated with industrial activity are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") to obtain Storm Water Permit coverage. Information available to Coastkeeper and CERF indicates that the Eastgate Hauling Facility first obtained Storm Water Permit coverage on November 14, 2017. The Facility submitted its most recent NOI on March 16, 2018 ("2018 NOI"). Coastkeeper and CERF obtained the 2018 NOI from California's online Storm Water Multiple Application & Reporting Tracking System ("SMARTs") database. The 2018 NOI lists the Facility Waste Discharge Identification ("WDID") number as 9 37I027471. The NOI identifies both the Facility site name and Facility operator as "Republic Services of San Diego Eastgate." However, the Facility's 2017 SWPPP states that the property is owned and operated by "Republic Services." 2017 SWPPP § 1.1.

The 2018 NOI states that the Facility is 2.11 acres, all of which are exposed to storm water, but does not indicate what percent of the site is impervious. The 2017 SWPPP, the latest SWPPP which currently covers the Facility, states that the operating portion of Facility is approximately 2.1, and lists the site as greater than 90 percent impervious.

The 2018 NOI and the 2017 SWPPP list the Standard Industrial Classification ("SIC") code for the Eastgate Hauling Facility as 4212, described as local trucking without storage. Information available to Coastkeeper and CERF, including the Facility 2017 SWPPP describing vehicle and equipment maintenance and storage at the Facility, indicates that SIC code 4231 (terminal and joint terminal maintenance facilities for motor freight transportation) also applies to the Facility.

Republic Services Inc. purchased the Eastgate Hauling Facility from Tayman Industries, Inc. ("Tayman") in 2017. 2017 SWPPP § 1.1. Information available to Coastkeeper and CERF indicates that Tayman owned and operated the Facility located at 5692 Eastgate Drive for some time without first obtaining coverage under the 1997 Permit. On July 8, 2011, the California Regional Water Quality Control Board, San Diego Region, ("Regional Board") issued a notice informing Tayman that the Facility was required to enroll under the 1997 Permit, Order No. 97-

03-DWQ. On June 23, 2011, a Regional Board inspector and a City of San Diego Storm Water inspector visited the Facility and confirmed that such coverage was required. Information available to Coastkeeper and CERF indicates that Tayman obtained coverage under the 1997 Permit for the Facility at some point thereafter. Tayman submitted an NOI for coverage under the 2015 Permit on June 19, 2015. The 2015 NOI lists the Facility WDID as 9 37I023241, and identifies both the Facility site name and Facility operator as "Tayman Industries Inc." The Tayman 2015 NOI lists the SIC code as 4212, local trucking without storage. However, all of the Tayman Facility SWPPPs describe vehicle and equipment maintenance and storage at the Facility, indicating that SIC code 4231, terminal and joint terminal maintenance facilities for motor freight transportation, also applied to Tayman's Operations.

Information available to Coastkeeper and CERF indicate that Republic has assumed the assets and liabilities of its predecessor. A purchasing entity assumes the seller's liabilities when "(1) there is an express or implied agreement of assumption, (2) the transaction amounts to a consolidation or merger of the two corporations, (3) the purchasing corporation is a mere continuation of the seller, or (4) the transfer of assets to the purchaser is for the fraudulent purpose of escaping liability for the seller's debts." *Tayman Industries, Inc. Ray v. Alad Corp.*, 19 Cal. 3d 22, 28 (1977). As previously noted, Republic Services Inc. purchased the Eastgate Hauling Facility from Tayman in 2017. Republic's annual report to the U.S. Securities and Exchange Commission for the fiscal year ending December 31, 2017 ("2017 Form 10-K") states that Tayman Industries, Inc. is a subsidiary or affiliate under the Republic corporate umbrella. Moreover, the URL "http://www.taymaninc.com/" indicates that Tayman "is now a part of" Republic, and the website is marked with Republic Services branding stating "We'll handle it from here.™" The website also contains the following message: "It is our pleasure to announce after proudly serving customers in San Diego, CA and the surrounding area for the past 23 years; Tayman Industries Inc is merging operations with another capable and customer-focused solid waste and recycling company, Republic Services of San Diego." Hence, Republic's purchase of Tayman is a consolidation of the two corporations, and operations at the Eastgate Hauling Facility are a mere continuation of Tayman's prior operations. Therefore, Republic is liable for all prior Clean Water Act and Storm Water Permit violations of its predecessor, Tayman Industries, Inc.

Coastkeeper and CERF put the Facility Owner and/or Operator on notice that industrial activities are conducted throughout the Facility, and thus the entire Facility requires Storm Water Permit coverage. In addition, even if the regulated industrial activities are not occurring throughout the entire Facility at all times, under the Storm Water Permit's definition of "storm water associated with industrial activities" and explanation of material handling activities, Coastkeeper and CERF puts the Facility Owner and/or Operator on notice that since insufficient best management practices ("BMPs") or other controls exist to separate the storm water flows from portions of the Facility where non-regulated activities may occur from storm water flows from the regulated industrial activities, storm water at the Facility commingles and thus all storm water discharges from the Facility are regulated under the Storm Water Permit.

1.4. Storm Water Pollution and the Waters Receiving Facility's Discharges.

With every significant rainfall event, millions of gallons of polluted storm water originating from industrial operations around San Diego County, such as the Eastgate Hauling Facility, pour into storm drains and local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. These contaminated discharges can and must be controlled for the ecosystem to regain its health.

Information available to Coastkeeper and CERF indicate that polluted discharges from industrial facilities similarly situated to the Eastgate Hauling Facility often contain the following pollutants: heavy metals such as copper, iron, lead, aluminum, selenium, and zinc; pathogens and bacteria such as E. coli, enterococcus, and fecal coliform; excessive nutrients such as nitrogen and phosphorus; oil and grease ("O&G"), hydraulic fluids, antifreeze, aromatic hydrocarbons, and chlorinated hydrocarbons; solvents and detergents; and paints. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm.[3] Discharges of polluted storm water pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The Receiving Waters into which the Eastgate Hauling Facility discharges polluted storm water are ecologically sensitive areas. The Los Peñasquitos Lagoon ("Lagoon") is a 574-acre coastal estuary that is part of the Torrey Pines State Natural Reserve, and is designated as a "Natural Preserve" by California State Parks.[4] One of the few remaining native saltmarsh lagoons in southern California, it serves as an important stopover and refuge for migratory birds using the Pacific Flyway, as well as an essential fish habitat which supports the nearby La Jolla and San Diego-Scripps State Marine Conservation Areas (ASBS #29 and #31) located just South of the Lagoon.[5] The Lagoon provides an extensive ecosystem that is home to numerous plant and animal species, including 49 species designated as sensitive by the International Union for Conservation of Nature. Pollutants discharged from the Facility are deleterious not only to the Lagoon's larger inhabitants such as mammals and birds, but also to invertebrates, insects, larval fish, and local vegetation which support life throughout the estuary. As such, these pollutant discharges strain the ecosystems on which numerous species depend for survival.

The polluted discharges from the Facility harm the special aesthetic and recreational significance of the Receiving Waters, adversely impacting the public's ability, as well as that of Coastkeeper's and CERF's members, to use and enjoy these unique waterbodies. Multiple parking lots, public access points, and several miles of trails and mixed use pathways provide

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[3] Health & Saf. Code §§ 25249.5 - 25249.1.
[4] Regional Board, Sediment TMDL for Los Peñasquitos Lagoon, *available at* https://www.waterboards.ca.gov/sandiego/water_issues/programs/tmdls/docs/los_penasquitos_lagoon/updates071212/Staff_Report.pdf; http://www.lospenasquitos.org/visit-the-preserve/.
[5] Los Peñasquitos Lagoon Foundation website, http://www.lospenasquitos.org/visit-the-preserve/.

public access to a variety of locations surrounding the Lagoon. This public access offers recreational opportunities to observe wildlife, and enjoy unique views of the Lagoon, coastline, and dramatic landscape of Torrey Pines State Natural Reserve. Pollutants discharged from the Eastgate Hauling Facility affects the health of the Receiving Waters, and thus the plant and animal life of the surrounding habitats. Sediment deposits in particular have directly and indirectly affected Lagoon functions and salt marsh characteristics, at times choking the Lagoon's proper tidal flow and drainage, which can lead to an increase in mosquito activity, some of which are known to carry West Nile Virus in the area. Damage to these natural habitats, and thus the flora and fauna within them, harms the ability of the public, including Coastkeeper's and CERF's members' ability to use and enjoy the unique recreational opportunities offered by the Receiving Waters. Furthermore, Coastkeeper's and CERF's members are less likely to recreate in and around waters known to be polluted with pathogens such as E. coli and fecal coliform, nutrients, and toxic metals such as lead, copper, and zinc. As such, polluted discharges from the Facility impedes Coastkeeper's and CERF's members' use and enjoyment of the parks, trails and open spaces surrounding Receiving Waters.

The Regional Board issued the *Water Quality Control Plan for the San Diego Basin* ("San Diego Basin Plan" or "Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for Carroll Canyon include: contact water recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat wildlife habitat, rare, threatened, or endangered species, industrial service supply, and agricultural supply. Basin Plan, Table 2-2. The Beneficial Uses for Soledad Canyon include: contact water recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat wildlife habitat, industrial service supply, and agricultural supply. *Id.* The Beneficial Uses for Los Peñasquitos Lagoon include: contact recreation (only fishing from boat or shore), non-contact water recreation, preservation of biological habitats of special significance, estuarine habitat, wildlife habitat, rare, threatened, or endangered species, marine habitat, migration of aquatic organisms, spawning, reproduction, and/or early development, and shellfish harvesting. *Id.* at Table 2-3.

According to the 2016 303(d) List of Impaired Water Bodies, Carroll Canyon is impaired for benthic community effects and toxicity; Soledad Canyon is impaired for sediment toxicity and selenium; Los Peñasquitos Lagoon is impaired for sedimentation/siltation and toxicity; and the Pacific Ocean shoreline on Torrey Pines State Beach, at the North Beach Entrance parking lot is impaired for trash.[6] Polluted discharges from industrial sites, such as the Facility, contribute to the degradation of these already impaired surface waters and aquatic-dependent wildlife.

2. THE EASTGATE HAULING FACILITY AND RELATED DISCHARGES OF POLLUTANTS

2.1. <u>The Facility Site Description and Industrial Activities</u>.

[6] 2016 Integrated Report – All Assessed Waters, *available at http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml* (last accessed on May 3, 2017.)

The Owners and/or Operators of the Eastgate Hauling Facility describe the Facility as "a hauling, storage, and maintenance Facility for hauling vehicles." 2017 SWPPP § 2.1.2. The 2017 SWPPP explains that the Facility primarily maintains waste hauling vehicles, including mechanical maintenance and washing, and that washing activities are conducted by a third party vendor. The 2017 SWPPP also acknowledges that various materials are handled and stored outdoors. The Tayman SWPPPs state that the Facility stored vehicles and equipment, conducted vehicle maintenance such as changing oil and tires, and lubricating parts. The Tayman SWPPPs also note that their hauling vehicles were washed on site by a third party. Information available to Coastkeeper and CERF indicate that the Facility has also been used to store waste bins, containers, and various other materials outdoors, exposed to precipitation.

The 2017 Facility SWPPP identifies numerous industrial materials associated with operations at the Eastgate Hauling Facility. Table 2.1.c provides the following list of significant industrial materials present at the Facility: new and used antifreeze, acetylene, oxygen, carbon dioxide, water-based paint, power steering fluid, propane, diesel, gasoline, hydraulic oil, used motor oil, transmission oil, diesel exhaust fluid, grease, and used oil filters. The Tayman SWPPPs identify motor oil, hydraulic oil, and basic solvents as industrial materials and possible pollutants.

According to the Facility SWPPP and site map, the areas of industrial activity at the Facility include two truck maintenance areas, one in Drainage Area 1 ("DA-1) and one in Drainage Area 2 ("DA-2"); a waste hauling truck parking and storage area; and multiple materials storage areas.

Information available to Coastkeeper and CERF indicates that these industrial activities occur at various locations throughout the Facility either outdoors, or without adequate cover to prevent storm water and non-storm water exposure to pollutant sources, and without adequate secondary containment or other adequate treatment measures to prevent polluted storm water and non-storm water from discharging from the Facility. Further, information available to Coastkeeper and CERF indicates that the pollutants associated with the Facility have been and continue to be tracked throughout the entire site, and on and off the Facility through ingress and egress. This results in trucks and vehicles tracking trash, pathogens, nutrient pollutants, sediment, dirt, O&G, metal particles, and other pollutants off-site. The resulting illegal discharges of polluted storm water and non-storm water impact Coastkeeper's and CERF's members' use and enjoyment of the Receiving Waters by degrading the quality of those waters, and by posing risks to human wellbeing, aquatic life, and ecosystem health.

2.2. Pollutants and Pollutant Sources Related to the Facility's Industrial Activities.

Despite the activities and pollutant sources listed above, the 2017 Facility SWPPP states that the only pollutants "that can potentially enter stormwater run-off and other discharges draining from the Facility include: Sediment (including vehicle traffic from both the Eastgate Facility and Neighboring Facilities), Oil and Grease (waste oil and leaks from equipment), and pH." However, this claim is contradicted by Tables 2.1.a and 2.1.b of the very same SWPPP.

Table 2.1.b indicates that pollutants associated with industrial activities at the Facility include: oil and grease, hydrocarbons, "gross pollutants," and "trace metals." Table 2.1.b further states that these pollutants may come from leaks, spills, "debris from vehicles," or other maintenance activities. While Table 2.1.a also states that the only pollutants present at the Facility as a result of industrial activities are O&G, total suspended solids ("TSS"), and pH, Table 2.1.a acknowledges that "decaying organic material" may be a pollutant source.

Information available to Coastkeeper and CERF indicates that the Facility discharges numerous pollutants not identified in the Facility SWPPP. Such information indicates that pollutants commonly present in storm water discharged from facilities similar to the Eastgate Hauling Facility include: pathogens such as enterococcus, E. coli, and fecal coliform; excessive nutrients such as ammonia as nitrogen, nitrite, nitrate, total nitrogen and phosphorus; metals such as aluminum, lead, zinc, manganese, selenium, copper, and iron; dissolved oxygen; as well as a host of other pollutants acknowledged in the Facility SWPPP such as gasoline and diesel fuels; fuel additives; coolants; antifreeze; transmission fluid; hydraulic fluid; waste oil; compressed natural gas; oil and grease; TSS; and pH affecting substances. The Facility SWPPP's acknowledgement of pollutants and pollutant sources such as gross pollutants, trace metals, debris from vehicles, and decaying organic material serves as additional evidence that the pollutants listed above are present at the Facility.

As further discussed Sections 3.5.3 and 3.6.3, *infra*, the Eastgate Hauling Facility SWPPP has failed and continues to fail to adequately assess potential pollutant and pollutant sources, and the Facility has failed and continues to fail to monitor for all pollutants required by the Permit.

2.3. Eastgate Hauling Facility Storm Water Flow and Discharge Locations.

According to the Facility SWPPP, the Eastgate Hauling Facility Owner and/or Operator reports that the Facility consists of two drainage areas, each with one discharge point. The SWPPP and site map indicate that the vast majority of the Facility is situated in DA-1. The 2017 SWPPP states that DA-1 includes a truck maintenance area, truck parking area, most of the material storage areas, an employee parking area, and a covered building. According to the Facility SWPPP, surface flows in DA-1 are directed towards the employee parking area, and flow via sheet flow toward the southeast corner of Facility to a small concrete curbed channel, labeled DP-1, which directs flows to a City of San Diego Municipal Separate Storm Sewer System ("MS4") drainage inlet. 2017 SWPPP § 2.1.4. As such, the SWPPP and site map indicate that storm water from the primary industrial area of the Facility is directed to the employee parking area, which the SWPPP designates as a non-industrial area. Thus, during rain events storm water exposed to industrial materials and activities comingles with storm water from the employee parking area due to the layout and flow pattern of the Facility. Furthermore, information available to Coastkeeper and CERF indicates that not all water from DA-1 is successfully routed to the curbed channel at the Facility's most eastern point. Some storm water flows and/or is tracked outside of the Facility boundary, onto the access road shared by the Eastgate Hauling Facility and the neighboring Robertson's Ready Mix Facility, and onto Eastgate Drive.

The Facility SWPPP and site map indicate that DA-2 is a much smaller drainage area located in the northern-most corner of the Facility. According to the SWPPP, the "area contains a second truck maintenance area, materials storage container and an oil containment trench. *Id.* The SWPPP states that storm water flows in DA-2 are directed towards the Facility's fence line in the northeast corner of the Facility, and is thereafter discharged via DP-2 "directly offsite into open space." *Id.* The SWPPP further states that DA-2 "only discharges during larger rainfall events and in cases where the trench might overflow," but fails to quantify the containment capacity of the trench.

3. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT

In California, any person who discharges storm water associated with certain industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1).

Between 1997 and June 30, 2015, the Storm Water Permit in effect was Order No. 97-03-DWQ, which Coastkeeper and CERF refer to as the "1997 Permit." On July 1, 2015, pursuant to Order No. 2014-0057-DWQ the Storm Water Permit was reissued, which Coastkeeper and CERF refer to as the "2015 Permit." As explained below, the 2015 Permit includes terms that are as stringent or more stringent than the 1997 Permit. Accordingly, the Eastgate Hauling Facility Owner and/or Operator is liable for violations of the 1997 Permit and ongoing violations of the 2015 Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115,121-22 (D.N.J. 1988) ("[l]imitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect").

3.1. Unauthorized NSWDs from the Facility in Violation of Storm Water Permit Discharge Prohibition.

Except as authorized by certain special conditions, the Storm Water Permit prohibits permittees from discharging materials other than storm water ("non-storm water discharges" or "NSWDs") either directly or indirectly to waters of the United States. 1997 Permit §§ A.1, D.1; 2015 Permit § III.B. Prohibited NSWDs must be either eliminated or permitted by a separate NPDES permit. 1997 Permit § A.1; 2015 Permit § III.B.

Information available to Coastkeeper and CERF indicates that unauthorized NSWDs occur at the Facility, and the Facility has failed to develop and/or implement adequate BMPs necessary to prevent these discharges. For example, one of the Facility's primary industrial activities is vehicle washing. Section 2.1.2 of the 2017 SWPPP states that vehicle washing is one of the outdoor operations at the Facility which could affect ambient storm water quality, and the

Facility SWPPP fails to identify any BMPs would prevent wash water from being tracked out of washing areas, commingling, and discharging from the Facility. NSWDs resulting from washing and cleaning are not from sources that are listed among the authorized NSWDs in the special conditions section of the Storm Water Permit, and are thus always prohibited. Furthermore, the 2017 SWPPP concedes that no non-storm water discharges are authorized at Facility. 2017 SWPPP § 2.4. Therefore, the Facility Owner and/or Operator's assertion that "[t]here are no activities at this site that may result in unauthorized non-stormwater discharges" is erroneous, and in violation of the Storm Water Permit. *Id.*; *see also* 1997 Permit § A.1; 2015 Permit § III.B.

Coastkeeper and CERF put the Eastgate Hauling Facility Owner and/or Operator on notice that the Storm Water Discharge Prohibition is violated each time unauthorized non-storm water is discharged from the Facility. *See* 1997 Permit § D.1; *see also* 2015 Permit § III.B. These Discharge Prohibition violations are ongoing and will continue until the Facility Owner and/or Operator develops and implements BMPs that prevent prohibited unauthorized NSWDs, or obtains separate NPDES permit coverage. Each time the Facility Owner and/or Operator discharges prohibited non-storm water in violation of the Storm Water Permit's Discharge Prohibitions is a separate and distinct violation of the Storm Water Permit and section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the number and dates of violations when additional information becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.2. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Discharge Prohibitions.

Section III of the 2015 Permit enumerates several Discharge Prohibitions. Section III.D of the 2015 Permit states that "[d]ischarges that violate any discharge prohibitions contained in applicable Regional Water Board Water Quality Control Plans (Basin Plans), or statewide water quality control plans and policies are prohibited." The San Diego Basin Plan designates beneficial uses for water bodies in the San Diego region and establishes water quality objectives and implementation plans to protect those beneficial uses.[7] The San Diego Basin Plan further establishes certain Waste Discharge Prohibitions.[8] Waste Discharge Prohibition number 5 of the San Diego Basin Plan states, "the discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with the applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the Regional Board."[9] "Waste" is defined as, "waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation," which includes discharges of pollutants in storm water.[10] Accordingly, where the "quality of the discharge" does not meet water quality

[7] *See* https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/ for updated Basin Plan.
[8] San Diego Basin Plan, Chapter 4, page 4-19.
[9] *Id.* at page 4-20 (Waste Discharge Prohibition 5).
[10] California Water Code, § 13050(d) (emphasis added).

objectives, the discharge, absent an express "allowance for dilution" by the San Diego Regional Board is prohibited by Discharge Prohibition III.D of the 2015 Permit.

Information available to Coastkeeper and CERF, including its review of publicly available information and observations, indicates that no express allowance for dilution has been granted by the Regional Board applicable to the Eastgate Hauling Facility's discharges, or to the downstream Receiving Waters. As such, information available to Coastkeeper and CERF, including review of available information, direct observations, and the analytical results of storm water sampling at the Facility, indicate that the Eastgate Hauling Facility Owner and/or Operator has violated and continues to violate Discharge Prohibition III.D of the 2015 Permit by discharging pollutants in excess of water quality objectives listed in the San Diego Basin Plan. The table attached hereto as Exhibit 1 includes sample results of storm water discharges collected and analyzed by the Facility. As demonstrated by the data in Exhibit 1, the Eastgate Hauling Facility Owner and/or Operator has failed to discharge pollutants in storm water at or below Basin Plan water quality standards. For example, the San Diego Basin Plan sets forth a narrative standard for TSS mandating that "[w]aters shall not contain suspended and settleable solids in concentrations of solids that cause nuisance or adversely affect beneficial uses." Yet, the Facility's own storm water monitoring data shows numerous instances of extremely high TSS concentrations, which have the potential to adversely affect the beneficial uses of Receiving Waters. Ex. 1.

The Storm Water Permit Discharge Prohibitions further prohibit storm water discharges and authorized NSWDs which cause or threaten to cause pollution, contamination, or nuisance as defined in Section 13050 of the California Water Code. 1997 Permit § A.2; 2015 Permit § III.C. The California Water Code defines "contamination" as "an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease." "Pollution" is defined as "an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects . . . [t]he waters for beneficial uses."

Information available to Coastkeeper and CERF indicates that the Eastgate Hauling Facility has discharged, and continues to discharge, numerous pollutants in concentrations that cause or threaten to cause pollution, contamination, or nuisance in and around Receiving Waters. For example, the Eastgate Hauling Facility's own monitoring data shows that on numerous occasions during the past five years, the Facility has discharged TSS in excess of the Basin Plan Water Quality Objective, and EPA Benchmark standard, which were promulgated to protect human health and the environment, as well as the Beneficial Uses of Receiving Waters. *See* Ex. 1. As such, the Eastgate Hauling Facility's discharges of polluted storm water have violated the Storm Water Permit's Discharge Prohibition III.C.

Furthermore, as discussed in Section 3.6.3, *infra*, information available to Coastkeeper and CERF indicates that the Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to analyze the Facility's storm water discharges for numerous pollutants required by the Storm Water Permit. This information further indicates that the Facility has discharged and continues to discharge numerous pollutants in concentrations exceeding water

quality objectives in violation of Discharge Prohibition III.D, and which cause or threaten to cause pollution, contamination, or nuisance in violation of Discharge Prohibition III.C.

Coastkeeper and CERF put the Eastgate Hauling Facility Owner and/or Operator on notice that the Storm Water Permit Discharge Prohibition is violated each time storm water discharges from the Facility. *See* Ex. 2 (setting forth dates of all precipitation events during the past five years).[11] These Discharge Prohibition violations are ongoing and will continue every time the Facility discharges polluted storm water in violation of Discharge Prohibitions III.C or III.D of the 2015 Permit. Each time the Facility Owner and/or Operator discharges polluted storm water in violation of Discharge Prohibitions III.C or III.D of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the dates of violations when additional information and data become available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

Further, Coastkeeper and CERF put the Eastgate Hauling Facility Owner and/or Operator on notice that Discharge Prohibitions III.C and III.D are independent Storm Water Permit requirements that must be complied with, and that carrying out the iterative process triggered by exceedances of the Numeric Action Levels ("NALs") listed at Table 2 of the 2015 Permit does not amount to compliance with the Discharge Prohibition provisions.

3.3. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Effluent Limitation.

The Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve Best Available Technology Economically Achievable ("BAT") for toxic and non-conventional pollutants and Best Conventional Pollutant Control Technology ("BCT") for conventional pollutants. 1997 Permit § B.3; 2015 Permit § V.A.

The EPA's NPDES Storm Water Multi-Sector General Permit for Industrial Activities ("MSGP") includes numeric benchmarks for pollutant concentrations in storm water discharges ("EPA Benchmarks"). EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B.3 of the 1997 Permit and Effluent Limitation V.A of the 2015 Permit.[12] As

[11] Exhibit 2 includes the dates of all precipitation events recorded during the past five years, and the corresponding quantity of precipitation for each such event. The data in Exhibit 2 was recorded by the National Oceanic & Atmospheric Administration at the weather monitoring station geographically nearest to the Facility with complete precipitation records. Coastkeeper and CERF will include additional dates of rain events when that information becomes available.

[12] *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective February 26, 2009, Fact Sheet at 106; *see also* 65 Federal Register 64839 (2000).

such, discharges from an industrial Facility containing pollutant concentrations that exceed EPA Benchmarks indicate that the Facility has not developed and/or implemented BMPs that meet BAT for toxic pollutants and BCT for conventional pollutants.[13]

Information available to Coastkeeper and CERF, including its review of publicly available information and observations, indicates that BMPs that achieve BAT/BCT have not been developed and/or implemented at the Eastgate Hauling Facility. Consistent with Coastkeeper and CERF's review of available information and direct observations, the Facility's storm water monitoring data demonstrates that Facility discharges have exceeded EPA Benchmarks for several pollutants, indicating that the Facility has failed and continues to fail to develop and/or implement BMPs as required to achieve compliance with the BAT/BCT standards. For example, storm water samples collected from the Facility on December 5, 2018, January 12, 2019, and January 14, 2019 reflected TSS concentrations above the EPA Benchmark for TSS of 100 mg/L. *See* Ex. 1.

As discussed in Section 3.6.3, *infra*, information available to Coastkeeper and CERF indicates that the Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to analyze storm water discharged from the Facility for numerous pollutants that result from the Facility's industrial operations. As such, in addition to TSS, the Eastgate Hauling Facility likely discharges numerous additional pollutants in concentrations exceeding EPA benchmarks, indicating that the Facility has failed to develop and/or implement BMPs as required to achieve compliance with the BAT/BCT standards.

Coastkeeper and CERF put the Eastgate Hauling Facility Owner and/or Operator on notice that the Storm Water Permit Effluent Limitation is violated each time storm water discharges from the Facility. *See* Ex. 2. These discharge violations are ongoing and will continue every time the Facility Owner and/or Operator discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Each time the Facility Owner and/or Operator discharges polluted storm water in violation of Effluent Limitation B.3 of the 1997 Permit and Effluent Limitation V.A of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the dates of violations when additional information and data become available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

Further, Coastkeeper and CERF put the Eastgate Hauling Facility Owner and/or Operator on notice that the 2015 Permit Effluent Limitation V.A is an independent requirement that must be complied with, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with Effluent Limitation V.A.

[13] *Santa Monica Baykeeper v. Kramer Metals, Inc.*, 619 F.Supp.2d 914 (C.D. Cal. 2009).

3.4. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Receiving Water Limitations.

Receiving Water Limitation C.2 of the 1997 Permit prohibits storm water discharges and authorized NSWDs that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS").[14] The 2015 Permit includes the same receiving water limitation. 2015 Permit § VI.A. Discharges that contain pollutants in excess of an applicable WQS violate the Storm Water Permit Receiving Water Limitations. 1997 Permit § C.2; 2015 Permit § VI.A.

Receiving Water Limitation C.1 of the 1997 Permit prohibits storm water discharges and authorized NSWDs to surface water that adversely impact human health or the environment. The 2015 Permit includes the same receiving water limitation. 2015 Permit § VI.B. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of the Storm Water Permit Receiving Water Limitation. 1997 Permit § C.1; 2015 Permit § VI.B.

Storm water sampling at the Facility demonstrates that its discharges contain concentrations of pollutants that cause or contribute to a violation of an applicable WQS in violation of the Storm Water Permit's Receiving Water Limitations. *See* 1997 Permit § C.2; 2015 Permit § VI.A. For example, the San Diego Basin Plan mandates that "[w]aters shall not contain suspended and settleable solids in concentrations of solids that cause nuisance or adversely affect beneficial uses." Yet, the Facility's own storm water monitoring data shows numerous instances of extremely high TSS concentrations, which have the potential to adversely affect the beneficial uses of Receiving Waters.

As explained herein, the Receiving Waters are impaired, and thus unable to support the designated Beneficial Uses, for some of the same pollutants discharged by the Facility. Carroll Canyon is impaired for benthic community effects. The Basin Plan explains that "[s]uspended and settleable solids are deleterious to benthic organisms and may cause the formation of anaerobic conditions. They can clog fish gills and interfere with respiration in aquatic fauna. They also screen out light, hindering photosynthesis and normal aquatic plant growth and development." Basin Plan at 3-31. As such, the Facility's storm water discharges containing elevated concentrations of TSS in excess of the Basin Plan Water Quality Objective, cause and/or contribute to the benthic community effects impairment of Carroll Canyon.

Furthermore, Los Peñasquitos Lagoon is impaired for sedimentation and siltation. The Basin Plans explains that "[s]uspended sediment in surface waters can cause harm to aquatic organisms by abrasion of surface membranes, interference with respiration, and sensory

[14] The Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to the impairment of Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and water quality objectives in the Basin Plan. Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

perception in aquatic fauna. Suspended sediment can reduce photosynthesis in and survival of aquatic flora by limiting the transmittance of light." *Id.* As the 2017 SWPPP acknowledges the presence of sediment in the Facility's discharges, and the Facility's own monitoring data reflects numerous exceedances the Basin Plan Water Quality Objective for TSS, the Facility's storm water discharges cause and/or contribute to the sedimentation/siltation impairment of the Los Peñasquitos Lagoon.

As discussed in Section 3.6.3, *infra*, information available to Coastkeeper and CERF indicates that the Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to analyze storm water discharged from the Facility for numerous pollutants that result from the Facility's industrial operations. As such, in addition to TSS, the Eastgate Hauling Facility likely discharges numerous pollutants in concentrations in exceedance of Receiving Water Limitations. For example, storm water discharges from facilities engaging in industrial activities similar to those conducted at the Eastgate Hauling Facility, which perform maintenance on heavy machinery used to handle municipal waste, typically contain extremely high levels of toxic metals, such as zinc and copper, in excess of the Basin Plan Objectives. Carroll Canyon and Los Peñasquitos Lagoon are impaired for toxicity, and Soledad Canyon is impaired for sediment toxicity. As such, any discharges from the Eastgate Hauling Facility exceeding the CTR will cause and/or contribute to the toxicity and sediment toxicity impairments of Receiving Waters.

The CTR and Basin Plan are applicable WQSs under the Storm Water Permit. Thus, discharges from the Facility containing concentrations of pollutants in exceedance of WQSs, cause or contribute to the impairments of Receiving Waters in violation of Receiving Water Limitations of the Storm Water Permit. 1997 Permit § C.2; 2015 Permit § VI.A. Discharges of elevated concentrations of pollutants in the Facility's storm water also adversely impact human health. These harmful discharges from the Facility are also violations of the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit § C.1; 2015 Permit § VI.B.

Coastkeeper and CERF put the Eastgate Hauling Facility Owner and/or Operator on notice that Storm Water Permit Receiving Water Limitations are violated each time polluted storm water discharges from the Facility. *See* Ex. 2. Each time discharges of storm water from the Facility cause and/or contribute to a violation of an applicable WQS, it is a separate and distinct violation of Receiving Water Limitation C.2 of the 1997 Permit, Receiving Water Limitation VI.A of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time discharges of storm water from the Facility adversely impact human health or the environment, it is a separate and distinct violation of Receiving Water Limitation C.1 of the 1997 Permit, Receiving Water Limitation VI.B of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These discharge violations are ongoing and will continue every time contaminated storm water is discharged in violation of the Storm Water Permit Receiving Water Limitations. The Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the dates of violation when additional information and data becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

Further, Coastkeeper and CERF put the Facility Owner and/or Operator on notice that Receiving Water Limitations are independent Storm Water Permit requirements that must be complied with, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with the Receiving Water Limitations.

3.5. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan.

The Storm Water Permit requires permittees to develop and implement a Storm Water Pollution Prevention Plan prior to conducting industrial activities. A permittee has an ongoing obligation to revise the SWPPP as necessary to ensure compliance with the Storm Water Permit. The specific SWPPP requirements of the 1997 Permit and the 2015 Permit are set out below.

3.5.1. 1997 Permit SWPPP Requirements.

Section A.1 and Provision E.2 of the 1997 Permit require dischargers to have developed and implemented a SWPPP prior to beginning industrial activities that meets all of the requirements of the 1997 Permit. The objectives of the 1997 Permit SWPPP requirements are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Facility and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. 1997 Permit § A.2. These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations.

To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A.9 of the 1997 Permit, and must be revised as necessary to ensure compliance with the Storm Water Permit. 1997 Permit, Sections A.9–10. Sections A.3–10 of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the Facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, areas of industrial activity, and other features of the Facility and its industrial activities (§ A.4); a list of significant materials handled and stored at the site (§ A.5); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, NSWDs and their sources, and locations where soil erosion may occur (§ A.6).

Sections A.7–8 of the 1997 Permit require an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized NSWDs, including structural BMPs where non-structural BMPs are not effective.

3.5.2. 2015 Permit SWPPP Requirements.

As with the SWPPP requirements of the 1997 Permit, Sections X.A–H of the 2015 Permit require dischargers to have developed and implemented a SWPPP that meets all of the requirements of the 2015 Permit. *See also* 2015 Permit, Appendix 1. The objective of the SWPPP requirements are still to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. 2015 Permit § X.C.

The SWPPP must include, among other things and consistent with the 1997 Permit, a narrative description and summary of all industrial activity, potential sources of pollutants, and potential pollutants; a site map indicating the storm water conveyance system, points of discharge, direction of flow, areas of actual and potential pollutant contact, nearby water bodies, and pollutant control measures; a description of the BMPs developed and implemented to reduce or prevent pollutants in storm water discharges and authorized NSWDs necessary to comply with the Storm Water Permit; the identification of NSWDs and the elimination of unauthorized NSWDs; the location where significant materials are being shipped, stored, received, and handled, as well as the typical quantities of such materials and the frequency with which they are handled; a description of dust and particulate-generating activities; and the identification of individuals and their current responsibilities for developing and implementing the SWPPP. 2015 Permit §§ X.A–H.

Further, the 2015 Permit requires the discharger to evaluate the SWPPP on an annual basis and revise it as necessary to ensure compliance with the Storm Water Permit. 2015 Permit §§ X.A–B. Like the 1997 Permit, the 2015 Permit also requires that the discharger conduct an annual comprehensive site compliance evaluation that includes a review of all visual observation records, inspection reports and sampling and analysis results; a visual inspection of all potential pollutant sources for evidence of, or the potential for, pollutants entering the drainage system; a review and evaluation of all BMPs to determine whether the BMPs are adequate, properly implemented and maintained, or whether additional BMPs are needed; and a visual inspection of equipment needed to implement the SWPPP. 2015 Permit §§ X.B, XV.

3.5.3. The Eastgate Hauling Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit SWPPP Requirements.

The Eastgate Hauling Facility Owner and/or Operator has conducted and continues to conduct operations at the Facility with an inadequately developed and/or implemented SWPPP. First, the Facility SWPPP and site map fail to accurately include all information required by the Storm Water Permit. For example, the SWPPP, in conjunction with the site map claim that all water from DA-1 is routed to DP-1, the concrete curbed channel in the southeast corner of the Facility. Information available to Coastkeeper and CERF indicates that not all surface flows from DA-1 are successfully routed to DP-1. Some storm water flows and/or is tracked outside of the Facility boundary, onto the access road shared by the Eastgate Hauling Facility and the neighboring Robertson's Ready Mix Facility, and onto Eastgate Drive. This constitutes a separate discharge point from the Facility. However, the SWPPP and site map fail to identify it as such, and further fail to collect storm water samples from this discharge point, all of which are

violations of the Storm Water Permit. *See e.g.,* 2015 Permit § X.E.3.b. The Facility SWPPP and site map also fail to identify the containment capacity of the oil trench in DA-2 in violation of the Storm Water Permit. *See* 2015 Permit § X.G.1.a. Further, each of the Tayman SWPPPs and site maps are woefully inadequate, and lack adequate information regarding storm water flow, drainage areas and discharge points, and locations of all industrial materials and industrial activities.

The Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a SWPPP that includes an adequate description of potential pollutant sources. Section X.G.1.a of the 2015 Permit requires dischargers to "ensure the SWPPP *describes* each industrial process including: manufacturing, cleaning, maintenance, recycling, disposal, and any other activities related to the process." The Facility SWPPP fails to adequately describe any of the industrial activities at the Facility. The most detailed information provided by the SWPPP regarding the Facility's industrial operations, processes, and activities states: "The Facility primarily maintains hauling vehicles. Hauling vehicles also receive mechanical maintenance and washing at the Facility. Vehicle washing activities are conducted by a 3rd party vendor." 2017 SWPPP § 2.1.2 The SWPPP provides no additional information regarding how these activities are conducted at the Facility. The 2017 SWPPP also incorporates Tables 2.1.a–c which list industrial activities, associated industrial materials, and pollutants, but these tables are even more cursory than the narrative description provided in section 2.1.2. Thus, the SWPPP fails to provide information regarding *how* the Eastgate Hauling Facility Owner and/or Operator conduct any of its industrial activities. The Tayman Facility SWPPPs contain even less information regarding Tayman's industrial activities. As such, the SWPPPs have failed and continue to fail to provide the required *description* of industrial activities in violation of the Storm Water Permit.

The Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a SWPPP that includes an adequate pollutant source assessment. Section X.G.2 of the 2015 Permit requires dischargers to "ensure that the SWPPP includes a *narrative* assessment of all areas of industrial activity with potential industrial pollutant sources." (emphasis added). This assessment shall include "pollutants likely to be present in industrial storm water discharges and authorized NSWDs," (§ X.G.2.a.ii), "[t]he degree to which the pollutants associated with those materials may be exposed to, and mobilized by contact with, storm water," (§ X.G.2.a.iv), "[t]he direct and indirect pathways by which pollutants may be exposed to storm water or authorized NSWDs," (§ X.G.2.a.v), and "[t]he effectiveness of existing BMPs to reduce or prevent pollutants in industrial storm water discharges and authorized NSWDs," (§ X.G.2.a.vii), among other requirements.

The 2017 SWPPP fails to comply with any of the aforementioned requirements of X.G.2. The only narrative assessment provided in the 2017 SWPPP cursorily notes that the Facility conducts "vehicle maintenance," "mechanical maintenance," and "washing" at the Facility, and summarily states "[p]ollutants that can potentially enter stormwater run-off and other discharges draining from the Facility include: Sediment (including vehicle traffic from both Eastgate Hauling and Neighboring Facilities), Oil & Grease (waste oil and leaks from equipment); and pH." Given the activities, operations, and materials present at this Facility as described in

Section 2, *supra*, the 2017 SWPPP pollutant source assessment's conclusion that only sediment, O&G, and pH could be discharged from the Facility is absurd. As the pollutants identified in the pollutant source assessment are used to determine the parameters for which a Facility samples and analyzes its storm water, the Eastgate Hauling Facility Owner and/or Operator's identification of only these minimum pollutants evidences an intent to circumvent requirements of the Storm Water Permit, and thus avoid analyzing its storm water for required additional parameters.

The only pollutants identified in Table 2.1.b of the 2017 SWPPP are oil and grease, hydrocarbons, gross pollutants, and trace metals, without any further description or analysis. Even this woefully inadequate assessment of pollutants acknowledges that multiple metals and "gross pollutants" are present at the Facility, thus undermining the SWPPP's claims, made mere paragraphs prior, that only sediment, O&G, and pH could be present in the Facility's storm water discharges. Additionally, Table 2.1.a states that one source of pollutants at the Facility is "decaying organic material," evidencing that indicator bacteria such as fecal coliform, E. coli, and enterococcus are likely present at the Facility. Further, Table 2.1.b includes "debris from vehicles" as a pathway for pollutants to enter storm water. The vehicles receiving maintenance and washing at the Facility are used to transport municipal solid waste, green waste, and/or recyclables, and as such, they frequently track all pollutants associated with waste hauling onto the Facility. Indeed, the reason such vehicles and equipment are brought to the Facility for washing is that they have accumulated waste residue, trash, and other filth on their exterior and underside. As such, these vehicles frequently track numerous pollutants onto the Facility. Therefore, the SWPPP's recognition that "debris from vehicles" is a likely pollutant source at the Facility is an acknowledgement that these numerous pollutants associated with waste hauling activities are present at the Facility.

The Tayman Facility SWPPPs also fail to adequately assess pollutant sources. The 2015, 2016, and 2017 Tayman SWPPPs state only that "[s]ources of possible pollutants are motor oil hydraulic oil and basic solvents." Thus, these SWPPPs also violate Storm Water Permit SWPPP requirements.

In addition, as discussed in Section 2.2, *supra*, information available to Coastkeeper and CERF indicates that there are numerous other pollutants present in the Facility's storm water discharges. The Facility SWPPPs fail to acknowledge or assess the vast majority of these pollutants, and thus egregiously violate Storm Water Permit SWPPP requirements.

The Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a SWPPP that contains BMPs to prevent the exposure of pollutants and pollutant sources to storm water and the subsequent discharge of polluted storm water from the Facility, as required by the Storm Water Permit. This is due in part to the 2017 SWPPP's failure to include adequate site-specific information regarding the BMPs developed and/or implemented at the Facility. For example, Section 3.1 of the 2017 SWPPP simply states "[a]ll minimum Best Management Practices (BMPs) that are required by the IGP and necessary to meet the Facility conditions will be implemented." Thereafter, sections 3.1.1 through 3.1.5 of the 2017 SWPPP largely parrot the 2015 Permit language setting forth minimum BMP requirements.

Furthermore, rather than provide site-specific details regarding which BMPs will be implemented at specific Facility locations to address specific pollutants, the 2017 SWPPP's BMPs section cites to the generic CASQA Stormwater BMP Handbook Portal for additional BMPs details. 2017 SWPPP § 3.1. In addition, the 2017 SWPPP BMP summary table only recognizes one industrial activity, vehicle and equipment maintenance, without providing additional specifics. 2017 SWPPP, Table 3.5. Table 3.5 only addresses O&G, metals, and suspended sediment as potential pollutants, and thus fails to mention numerous pollutants. Therefore, the 2017 SWPPP fails to provide adequate site-specific information regarding how and where such BMPs are implemented, in violation of the Storm Water Permit. *See* 2015 Permit §§ X.A; X.H.

The SWPPP's inadequacies are further documented by the continuous and ongoing discharge of storm water containing pollutant levels that exceed EPA Benchmarks and applicable WQSs, which indicate that the Facility's BMPs are failing to meet BAT/BCT requirements. *See, e.g.,* Ex. 1.

The Eastgate Hauling Facility Owner and/or Operator has also failed to revise the Facility's SWPPP to ensure compliance with the Storm Water Permit. Despite the significant concentrations of pollutants in the Facility's storm water discharges, information available to Coastkeeper and CERF indicates that the Facility SWPPP has remained the same since November 2017, and has not been revised to include additional BMPs to eliminate or reduce these pollutants, as required by the Storm Water Permit.

Accordingly, the Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise the Facility SWPPP in violation of SWPPP requirements of the Storm Water Permit. Every day the Facility operates with an inadequately developed and/or implemented SWPPP, and/or with an improperly revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit SWPPP requirements since at least August 26, 2014. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.6. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program.

The Storm Water Permit requires permittees to develop and implement a storm water monitoring and reporting program ("M&RP") prior to conducting industrial activities. A permittee has an ongoing obligation to revise the M&RP as necessary to ensure compliance with the Storm Water Permit. The specific M&RP requirements of the 1997 Permit and the 2015 Permit are set out below.

3.6.1. 1997 Permit M&RP Requirements.

Section B.1 and Provision E.3 of the 1997 Permit require Facility operators to develop and implement an adequate M&RP prior to the commencement of industrial activities at a Facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a Facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 1997 Permit § B2.

The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the Facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.* §§ B.3–16. Dischargers must revise the SWPPP in response to their M&RP observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the Facility. *Id.* § B.4. Sections B.5 and B.7 of the 1997 Permit require dischargers to visually observe and collect samples of storm water from all locations where storm water is discharged.

Sections B.5 and B.7 of the 1997 Storm Water Permit require dischargers to visually observe and collect samples of storm water from all drainage areas and discharge locations where storm water is discharged. Under Section B.5 of the Storm Water Permit, a permittee is required to collect at least two (2) samples from each discharge location at the Facility during the Wet Season. Storm water samples must be analyzed for TSS, pH, SC, total organic carbon or O&G, and other pollutants that are likely to be present in the Facility's discharges in significant quantities. *Id.* § B.5.c. Finally, permittees must identify and use analytical method detection limits sufficient to determine compliance with the 1997 Permit's monitoring program objectives and specifically, the Effluent Limitations and Receiving Water Limitations. *Id.* § B.10.iii.

3.6.2. 2015 Permit M&RP Requirements.

As with the 1997 M&RP requirements, Sections X.I and XI.A–D of the 2015 Permit require Facility operators to develop and implement an adequate M&RP that meets all of the requirements of the 2015 Permit. The objective of the M&RP is still to detect and measure the concentrations of pollutants in a Facility's discharge, and to ensure compliance with the 2015 Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. 2015 Permit § XI. An adequate M&RP ensures that BMPs are effectively reducing and/or eliminating pollutants at the Facility, and is evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.*

As an *increase* in frequency of monitoring requirements, Sections XI.B.1–5 of the 2015 Permit requires permittees to collect storm water discharge samples from a qualifying storm event[15] as follows: 1) from each drainage area at all discharge locations, 2) from two (2) storm events within the first half of each Reporting Year[16](July 1 to December 31), 3) from two (2)

[15] The 2015 Permit defines a qualifying storm event as one that produces a discharge for at least one drainage area, and is preceded by 48-hours with no discharge from any drainage areas. 2015 Permit, Section XI(B)(1).
[16] A Reporting Year replaced the 1997 permit term Wet Season, and is defined as July 1 through June 30. 2015 Permit, Findings, ¶ 62(b).

storm events within the second half of each Reporting Year (January 1 to June 30), and 4) within four hours of the start of a discharge, or the start of Facility operations if the qualifying storm event occurs within the previous 12-hour period. The 2015 Permit requires, among other things, that permittees must submit *all sampling* and analytical results for all samples via SMARTS within 30 days of obtaining all results for each sampling event. *Id.* § XI.B.11 (emphasis added).

The parameters to be analyzed are also consistent with the 1997 Permit, however, the 2015 Permit no longer requires SC to be analyzed. Sections XI.B.6.a–b of the 2015 Permit requires permittees to analyze samples for TSS, O&G, and pH. Section XI.B.6.c–d of the 2015 Permit requires permittees to analyze samples for all pollutants associated with the Discharger's industrial activities. Specifically, the 2015 Permit requires Facility Owners and/or Operators to sample and analyze parameters on a Facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment. *Id.* § XI.B.6.c. Section XI.B.6.e of the 2015 Permit also requires dischargers to analyze storm water samples for additional applicable industrial parameters related to receiving waters with a Clean Water Act Section 303(d) listed impairment(s), or approved Total Maximum Daily Loads.

3.6.3. The Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit M&RP Requirements.

The Eastgate Hauling Facility Owner and/or Operator has been and continues to conduct operations at the Facility with an inadequately developed, implemented, and/or revised M&RP. For example, the Facility Owner and/or Operator has failed and continues to fail to sample and analyze storm water discharges for all parameters required by the Storm Water Permit, and fails to collect samples from all discharge locations.

Information available to Coastkeeper and CERF indicates that the Eastgate Hauling Facility Owner and/or Operator has failed to sample for numerous constituents likely to be present at the Facility in violation of Sections XI.B.6.c and XI.B.6.e of the 2015 Permit. As explained in Sections 2.2 and 3.5.3, *supra*, in light of the Facility's activities of storing, washing, and maintaining waste hauling trucks, dozens of pollutants are likely present at the Facility. However, the Facility Owner and/or Operator analyzes storm water samples for only TSS, O&G, and pH in violation of the Storm Water Permit.

In addition, the Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to develop and/or implement an M&RP that requires the collection of storm water samples from all discharge locations at the Facility in violation of Section XI.B.4 of the 2015 Permit. For example, both Republic and Tayman have only collected storm water samples from DP-1, accounting for storm water in DA-1. However, the 2017 SWPPP and site map indicate that the Facility consists of two drainage areas, DA-1 and DA-2. DA-2 discharges storm water and non-storm water at DP-2. However, both Tayman and Republic have failed to collect samples from DP-2. Furthermore, information available to Coastkeeper and CERF indicates that the Facility also discharges storm water from the truck ingress/egress point of the Facility, which ultimately discharges to Eastgate Drive. The Facility Owner and/or Operator has failed to sample any storm water discharged from this ingress/egress point.

Section XI.B.4 of the 2015 Permit specifically requires dischargers to collect samples "from *each drainage area* at *all* discharge locations." While Section B.7.d of the 1997 Permit and Section XI.C.4 of the 2015 Permit allow permittees to reduce the number of locations to be sampled, there is no indication that the Facility Owner and/or Operator has complied with the requirements of Section B.7.d of the 1997 Permit or Section XI.C.4 of the 2015 permit to justify sampling a reduced number of discharge locations at the Facility. Therefore, the Eastgate Hauling Facility is in violation of the Storm Water Permit for failing to collect any samples from DP-2 or the truck ingress/egress point to the Facility.

The Eastgate Hauling Facility Owner and/or Operator also failed to collect the required number of storm water samples for each reporting period. For example, the Facility only collected one sample during the entire 2017-2018 reporting period, and two samples from the 2016-17 reporting period. The Storm Water Permit requires permitees to collect samples from four QSEs during each reporting period.

Finally, the Storm Water Permit requires dischargers to conduct visual observations of storm water discharges, of authorized and unauthorized NSWDs, and of BMPs. Based on information available to Coastkeeper and CERF, including Annual Reports, the Eastgate Hauling Facility Owner and/or Operator fails to consistently, and/or adequately, conduct the required discharge observations and monitoring of BMPs.

Accordingly, the Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise a M&RP, in violation of the Storm Water Permit. Every day the Facility operates with an inadequately developed and/or implemented M&RP, or with an improperly revised M&RP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Eastgate Hauling Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit M&RP requirements since at least August 26, 2014. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.7. Failure to Comply with the Storm Water Permit's Reporting Requirements.

Section B.14 of the 1997 Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B.14 requires that the Annual Report include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B.13. The 2015 Permit includes the same reporting requirements with the Annual Report due July 15. *See* 2015 Permit § XVI.

The Eastgate Hauling Facility Owner and/or Operator has failed and continues to fail to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For

example, the Facility Owner and/or Operator simply failed to upload an Annual Report to the SMARTS database for the reporting period of 2017-2018. The Annual Report for the 2013-14 reporting period contains only the Facility and Operator information, and the rest of the report is blank or incomplete. The 2015-16 Annual Report inaccurately states that the Facility is not located within an impaired HUC 10 watershed, when Carroll Canyon, Soledad Canyon, and Los Peñasquitos Lagoon are impaired for various pollutants as discussed *supra*. The 2016-17 Annual Report inaccurately attests that all pollutants identified in the impaired watershed were included in the SWPPP pollutant source assessment. However, none of the pollutants identified in the 2016-17 Annual Report were acknowledged or assessed in Tayman's SWPPPs during that time period.

In each Annual Report since the filing of the 2013-14 Annual Report, the Eastgate Hauling Facility Owner and/or Operator certifies that: (1) a complete Annual Comprehensive Site Compliance Evaluation was conducted as required by the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Coastkeeper and CERF indicates that these certifications are erroneous. For example, storm water samples collected from the Facility contain concentrations of pollutants above EPA Benchmarks and WQSs, thus demonstrating that the Facility BMPs do not adequately address existing potential pollutant sources. Further, as discussed in Sections 3.5.3 and 3.6.3, *supra*, the Facility's SWPPP does not include many elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPP complies with the Storm Water Permit.

In addition, Eastgate Hauling Facility Owner and/or Operator has not accurately reported non-compliance, as required by the Storm Water Permit. *See* 1997 Permit § C.11.d; 2015 Permit § XVI.B.2.

Given that the Eastgate Hauling Facility Owner and/or Operator has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit, the Facility Owner and/or Operator is in daily violation of the Storm Water Permit. Every day the Facility Owner and/or Operator conducts operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least August 26, 2014. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

4. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the

period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of $37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009 and $54,833.00 per day per violation for violations that occurred after November 2, 2015.

In addition to civil penalties, Coastkeeper and CERF will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Coastkeeper and CERF will seek to recover their litigation costs, including attorneys' and experts' fees.

5. CONCLUSION

Coastkeeper and CERF are willing to discuss effective remedies for the violations described in this Notice Letter. However, upon expiration of the 60-day notice period, Coastkeeper and CERF will file a citizen suit under Section 505(a) of the Clean Water Act for the Eastgate Hauling Facility Owner and/or Operator's violations of the Storm Water Permit.

If you wish to pursue settlement discussions, please contact Coastkeeper and CERFs legal counsel:

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Sincerely,

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EXHIBIT 1

Exhibit 1, Storm Water Sampling Results from the Republic Eastgate Hauling Facility

No.	Date of Collection	Sample Location	Parameter	Units	Result	EPA Benchmark	Annual NAL
3	12/5/18	DP-1	Total Suspended Solids (TSS)	mg/L	160	100	100
2	1/12/19	DP-1	Total Suspended Solids (TSS)	mg/L	260	100	100
1	1/14/19	DP-1	Total Suspended Solids (TSS)	mg/L	260	100	100

EXHIBIT 2

Exhibit 2: Precipitation Data for Republic Eastgate Hauling Facility

National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service
Record of Climatological Observations
Station: San Diego Montgomery Field, CA US USW00003131
Location Elev: 417 ft., Lat: 32.8158° N, Lon: -117.1394° W

Date	Daily Precipitation (inches)
8/2/2014	0.07
8/3/2014	0.01
9/16/2014	1.08
11/1/2014	0.36
11/2/2014	0.09
11/14/2014	0.05
11/21/2014	0.05
12/2/2014	0.49
12/3/2014	0.3
12/4/2014	0.66
12/12/2014	0.29
12/31/2014	0.01
1/12/2015	0.07
1/26/2015	0.01
1/29/2015	0.01
3/1/2015	0.1
3/2/2015	0.07
4/23/2015	0.05
4/24/2015	0.01
4/25/2015	0.01
5/8/2015	0.62
5/14/2015	0.53
5/15/2015	0.61
5/16/2015	0.01
5/22/2015	0.03
5/25/2015	0.01
6/30/2015	0.09
7/1/2015	0.01
7/18/2015	1.42
7/19/2015	1.03
8/25/2015	0.01
9/15/2015	1.02

Date	Daily Precipitation (inches)
9/16/2015	0.03
10/4/2015	0.41
10/5/2015	0.27
10/29/2015	0.01
11/2/2015	0.04
11/3/2015	1.37
11/9/2015	0.05
11/10/2015	0.08
11/15/2015	0.11
11/25/2015	0.14
11/26/2015	0.06
11/27/2015	0.12
12/10/2015	0.01
12/11/2015	0.57
12/13/2015	0.18
12/19/2015	0.19
12/22/2015	0.37
12/23/2015	0.01
12/25/2015	0.01
12/28/2015	0.24
1/4/2016	0.17
1/5/2016	2.43
1/6/2016	0.39
1/7/2016	0.96
1/8/2016	0.08
1/15/2016	0.01
1/23/2016	0.01
1/30/2016	0.02
1/31/2016	0.4
2/18/2016	0.06
3/5/2016	0.02
3/6/2016	0.32

Exhibit 2: Precipitation Data for Republic Eastgate Hauling Facility

Date	Daily Precipitation (inches)
3/7/2016	0.42
3/11/2016	0.26
3/13/2016	0.01
3/14/2016	0.01
3/30/2016	0.04
4/7/2016	0.3
4/8/2016	0.05
4/10/2016	0.48
4/28/2016	0.02
4/30/2016	0.03
5/5/2016	0.15
5/6/2016	0.35
5/7/2016	0.03
5/9/2016	0.01
5/25/2016	0.03
5/30/2016	0.03
9/19/2016	0.01
9/20/2016	0.21
9/21/2016	0.16
10/24/2016	0.13
10/30/2016	0.03
11/20/2016	0.17
11/21/2016	0.31
11/26/2016	0.28
11/27/2016	0.16
12/15/2016	0.22
12/16/2016	1.39
12/21/2016	0.66
12/22/2016	0.61
12/23/2016	0.01
12/24/2016	0.85
12/30/2016	0.32
12/31/2016	0.75
1/1/2017	0.02
1/5/2017	0.14
1/9/2017	0.23
1/10/2017	0.04

Date	Daily Precipitation (inches)
1/11/2017	0.14
1/12/2017	0.36
1/13/2017	0.36
1/18/2017	0.02
1/19/2017	0.48
1/20/2017	1.54
1/22/2017	0.61
1/23/2017	0.22
1/24/2017	0.16
2/6/2017	0.1
2/7/2017	0.26
2/11/2017	0.04
2/17/2017	1.09
2/18/2017	0.28
2/19/2017	0.02
2/26/2017	0.05
2/27/2017	3.12
3/5/2017	0.07
3/22/2017	0.05
3/23/2017	0.03
4/19/2017	0.02
5/6/2017	0.09
5/7/2017	0.48
5/15/2017	0.02
6/10/2017	0.01
6/11/2017	0.02
9/3/2017	0.05
9/4/2017	0.01
9/8/2017	0.01
9/9/2017	0.04
11/1/2017	0.01
11/27/2017	0.01
12/20/2017	0.07
1/8/2018	0.22
1/9/2018	1.68
1/10/2018	0.04
2/13/2018	0.02

Exhibit 2: Precipitation Data for Republic Eastgate Hauling Facility

Date	Daily Precipitation (inches)
2/21/2018	0.06
2/22/2018	0.02
2/27/2018	0.36
3/3/2018	0.14
3/10/2018	0.47
3/11/2018	0.01
3/13/2018	0.02
3/14/2018	0.02
3/15/2018	0.15
3/17/2018	0.23
3/18/2018	0.02
3/22/2018	0.01
3/23/2018	0.01
4/19/2018	0.03
4/30/2018	0.02
5/1/2018	0.01
5/2/2018	0.03
10/4/2018	0.04
10/5/2018	0.02
10/12/2018	0.42
10/13/2018	0.02
11/22/2018	0.01
11/28/2018	0.01
11/29/2018	0.97
11/30/2018	0.05
12/1/2018	0.01
12/5/2018	0.69
12/6/2018	1.71
12/24/2018	0.02
12/25/2018	0.19
12/31/2018	0.07
1/12/2019	0.44
1/14/2019	0.45
1/15/2019	0.27
1/16/2019	0.1
1/17/2019	0.27
1/20/2019	0.01

Date	Daily Precipitation (inches)
1/21/2019	0.01
1/31/2019	0.54
2/1/2019	0.01
2/2/2019	0.93
2/3/2019	0.03
2/4/2019	0.78
2/5/2019	0.18
2/6/2019	0.01
2/9/2019	0.06
2/13/2019	0.43
2/14/2019	1.46
2/15/2019	0.04
2/16/2019	0.01
2/17/2019	0.11
2/18/2019	0.03
2/20/2019	0.18
2/21/2019	0.25
3/2/2019	0.21
3/3/2019	0.01
3/4/2019	0.02
3/5/2019	0.04
3/6/2019	0.07
3/7/2019	0.03
3/8/2019	0.04
3/11/2019	0.21
3/12/2019	0.21
3/20/2019	0.05
3/21/2019	0.21
4/3/2019	0.02
4/4/2019	0.01
4/5/2019	0.03
4/6/2019	0.04
4/29/2019	0.1
4/30/2019	0.15
5/6/2019	0.04
5/9/2019	0.04
5/10/2019	0.04

Exhibit 2: Precipitation Data for Republic Eastgate Hauling Facility

Date	Daily Precipitation (inches)
5/11/2019	0.12
5/16/2019	0.1
5/19/2019	0.16
5/20/2019	0.23
5/21/2019	0.01
5/22/2019	0.12
5/26/2019	0.15
5/27/2019	0.02
6/3/2019	0.01
6/20/2019	0.02
6/21/2019	0.06